[Mr. President]
and, if the Bill has been amended, the Bill as amended, or such portion thereof as may have been amended, shall also unless otherwise directed by the Select Committee be published in the Gazette". That provision is clearly there. I don't know how it escaped the notice of the Hon'ble Member.

Mr. C. V. Iyyu *(Kunnamkulam):* Standing Order 37 (1) (*i*) makes it clear that any Member can object.

M. President: Exactly that is the distinction which I draw. I asked the Hon'ble Member whether he was raising a point of order or whether he is raising only an objection, and the Hon'ble Member said he was raising a point of order under Standing Order 35. Standing Order 35 clearly provides for the contingency because of this clause inserted that unless otherwise directed by the Select Committee". The Select Committee Report that is before the House clearly says that "the Bill was published in the Gazette Extraordinary, dated 14th Vrischigam 1124. It has not undergone such material modifications at the hands of the Committee as to require republication". Therefore the Committee is of opinion and has given a directive that the Bill need not be republished. Therefore under Standing Order 35 the point of order raised by the Hon'ble Member does not stand. Now, if he likes, he may raise an objection under Standing Order 37.

Mr. P. Govinda Menon *(Minister for Finance and Law):* I would request the Chair to take it that he has raised an objection under Standing Order 37.

Mr. C. V. Iyyu *(Kunnamkulam):* If the President suspends the Standing Order, then.....

Mr. President: The President does not use his discretion arbitrarily. My reason for exercising that discretion is that the other day the House agreed to this procedure that the Bill be referred to a Select Committee and the report of the Select Committee be presented on Monday. And on the strength of that, I exercise my discretion and give the ruling that the Bill may be taken up for consideration.

The question is that the Cochin Incometax Act (Amendment) Bill be taken up for consideration.

Motion put and carried
Clauses 2 to 10 put and carried
Clause 1 put and carried
Title and Preamble put and carried

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I move that the Cochin Income tax Act Amendment) Bill be taken up and finally passed tomorrow.

Mr. E. Ikkanda Warrier *(Prime Minister):* I second it.

Motion put and carried

(ii) The Cochin Sales-Tax Act (Amendment) Bill

***Mr. P. Govinda Menon** *(Minister for Finance and Law):* Sir, I beg to present the report on the Cochin Sales-tax Act (Amendment) Bill made by the Select Committee. The main provisions of the Sales-tax Act Amendment Bill were explained by me on an earlier occasion in this session. The Bill did not undergo very many changes in the Select Committee. There are certain verbal amendments which are referred to in the report. For example, where a fine alone was previously provided, conviction also has been added by way of penalty for breaches of the provisions of the Act. What the committee mainly did was to make unanimous recommendations to Government with regard to certain exemptions. They are also referred to in the Bill; Now, Sir, as I explained earlier during this session, it is sought to take away the schedule to the Sales-tax Act and instead Government will notify from time to time the list of exempted articles. This does not in any way effect any material change in the law, nor does it give greater powers to Government to exempt articles or not to exempt articles. For, even according to the existing law, where a schedule is attached to the Bill, Government have power to change the schedule by notification. And therefore no additional powers have been taken by Government in removing the schedule and in saying that the exempted articles shall be notified from time to time. Simultaneously with the promulgation of the law, after this session, all the articles exempted will be notified in the Gazette. The Select Committee has suggested to Government that the notification may be published in important Malayalam Dailies and the dealers may be asked to publish conspicuously the exempted articles in places of business. Government will do these things.

*Speech not corrected by the Hon'ble member.

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With these few words I present the report of the Select Committee and I move that the Bill as amended by the Select Committee be taken into consideration.

Mr. C. V. Iyyu *(Kunnamkulam):* The point of order raised previously will apply to this also.

Mr. President : And the replies will also apply to this. I suppose I need not repeat what I said.

Mr. M. Bhaskara Menon (*Ernakulam*) : On a point of information. I think it was agreed that the offences under this will be tried by Magistrates of the First Class only. That does not find a place in this report.

Mr. P. Govinda Menon (*Minister for Finance and Law*): To the best of my recollection, there was only a discussion on that matter and no resolution.

Mr. M. Bhaskara Menon (*Ernakulam*) : No decision?

Mr. P. Govinda Menon *(Minister for Finance and Law)*: No decision.

Mr. C. V. Iyyu *(Kunnamkulam):* I have to oppose the amendment—deletion of clause 5.

Mr. President: Is the Hon'ble Member opposing clause 5 ? Then, I will put clauses 2 to 4.

Clauses 2 to 4 put and carried

Mr. C. V. Iyyu *(Kunnamkulam):* Sir, I am opposing the amendment. In opposing this, I have to bring to the notice of the House that an unrestricted power is given to Government in the matter of publishing the schedule of exemptions. Of course, the Hon'ble Minister a little earlier said that the Government may after previous publication alter add or delete any item of the schedule and thereupon the schedule shall be deemed to be amended accordingly. By sub-section 2, the Government shall do it only after previous publication, thereby inviting public criticism on the matter. They cannot all on a sudden issue a notification by deleting any of the items in the schedule published as schedule in the Salestax Act.

Mr. President: This clause the Hon'ble Member is opposing ?

Mr. C. V. Iyyu *(Kunnamkulam):* The new clause which Government is going to substitute in the place of clause 5.

Mr. President : I am afraid the Hon'ble Member is making a ccnfusion. The Hon'ble Member said that he is opposing clause 5 of the Bill.

Mr. C. V. Iyyu (*Kunnamkulam*): The exempted articles are published in a schedule. Now the Government have taken a power to themselves to publish the schedule from time to time as they please.

Mr. P. Govinda Menon (*Minister for Finance and Law*) : He missed the Bus, Sir. This power is in clause 4 and it has been passed.

Mr. President : That was why I specifically asked the Hon'ble Member whether he was opposing clause 5.

Mr. C. V. Iyyu (*Kunnamkulam):* I am sorry, I made a mistake.

Clauses 5 to 26 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I move that the Cochin Sales-tax Act Amendment Bill be taken up and finally passed tomorrow.

Mr. E. Ikkanda Warrier *(Prime Minister):* I second it.

Motion put and carried

(c) INTRODUCTION

(i) The Cochin Abkari Act (Amendment) Bill

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, in the Agenda, the next two items, the introduction of the Civil Procedure Code (Amendment) Bill and the introduction of the Cochin Non-Power Factories Bill, I am not moving. There is another Bill standing in my name *viz.*, the Cochin Supression of Immoral Traffic Bill. That also I am not moving today. The next is the Cochin Abkari Act (Amendment) Bill. That I am moving. Sir, I move that the Cochin Abkari Act (Amendment) Bill be read in Council.

Mr. E. Ikkanda Warriar *(Prime Minister):* I second it.

Mr. P. Govinda Menon (*Minister for Finance and Law*) : Persons not being manufacturers or vendors have been prohibited from possessing liquor or intoxicating drugs in excess of the quantities prescribed by Government without a license from the Commissioner of Excise, by section 13 of the Abkari Act, I of 1077. Clause (2) of the proviso to this section makes the section inapplicable to foreign liquor in the possession of any person for his bonafide private

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treatment accorded to agricultural income by sub-sections (6) and (7) of section 20 of the Cochin Income-tax Act should be continued. At any rate, the Committee think that the tax on agricultural income having been introduced only recently, should not all on a sudden, be raised to the level of the rate of non-agricultural income. They have, however, no objection to the existing rates being enhanced as shown in the revised rates proposed. In accordance with the above view of the majority of the Committee, Clause 6 of the Amendment Bill has been modified. A copy of the amendment proposed by the Committee is herewith appended.

The Bill was published in the Gazette Extraordinary dated 14th Vrischigam 1124 (29th November 1948). It has not undergone such material modifications at the hands of the Committee as to require republication.

We have the honour to be,
Sir,

(Subject to Dissenting Note)

P. GOVINDA MENON
Minister for Finance and Law and Chairman of the Committee

2. Mr. P. K. Krishnankutty Menon (Sd.)
3. ,, A. K. George (Sd.)
4. ,, K. Balakrishna Marar (Sd.)
5. ,, T. K. Kunjayyappan (Sd.)
6. ,, O. T. Inasu (Sd.)
7. ,, Kodanat Narayanan Nambudiripad (Sd.)
8. ,, M. R. Velappan (Sd.)
9. ,, K. A. Achuthan (Sd.)
10. ,, K. N. Pachayyappa Koundan (Sd.)

Amendments proposed by the Select Committee

For Clause 6 of the Cochin Income-tax Act (Amendment) Bill the following shall be substituted, namely:—

"6. For the rates of tax given in clause (2) of sub-section (6) of section 20 of the Act, the following shall be substituted:—

On the first Rs. 1,500	Nil.
On the next Rs. 3,500	Nine pies in the rupee.
On the next Rs. 5,000	On anna six pies in the rupee.
On the next Rs. 10,000	Three annas in the rupee.
On the next Rs. 10,000	Four annas in the rupee.
On the next Rs. 10,000	Five annas in the rupee.
On the next Rs. 10,000	Six annas in the rupee.
On the next Rs. 25,000	Seven annas in the rupee.
On the next Rs. 25,000	Eight annas in the rupee.
On the balance	Ten annas in the rupee.

Dissenting Minute by the Chairman

I regret I am unable to agree to the change proposed by the majority of the Committee. I find no reason why high agricultural incomes should be accorded, a treatment different from non-agricultural income.

(Sd.) P. GOVINDA MENON
Chairman

APPENDIX IV
REPORT OF THE SELECT COMMITTEE
on
THE COCHIN SALES-TAX ACT (AMENDMENT) BILL

We, the members of the Select Committee appointed to consider the Cochin Sales-tax Act (Amendment) Bill, have the honour to submit this, our report.

2. The Committee held one meeting and considered the clauses of the Bill in detail. They are unanimously of opinion that tobacco and tobacco products should be exempted from payment of sales-tax and they recommend accordingly.

3. The Committee also suggest that provision should be made in the rules for the issue of bills by dealers when they realise sales-tax and that such bills are to be given in all cases where the sale amount exceeds Rs. 10 and on demand by the purchaser if it is Rs. 10 or below.

4. The Committee also recommend that the list of exempted articles should be widely notified in the Gazette and in the local papers, and that printed copies of the list should also

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be made available to all registered dealers and that provision should be made for the lists being exhibited by the dealers in a conspicuous part of their place of business for the information of the public.

5. The Committee further recommend that the following amendments may be made in clause 2 of the Bill:—

In the proposed section 31 (1)—

(*i*) in clause (*a*), between the words 'submit' and 'a' insert the words 'without sufficient cause';

(*ii*) in clause (*b*), after the word 'allowed', the words 'or such further time as may be allowed' shall be inserted;

(*iii*) in clause (*h*), before the word 'wilfully' insert the word 'otherwise'; and

(*iv*) for the words 'shall on conviction by a Magistrate be liable to a fine which may extend to Rs. 1,000 and in the case of a conviction under clause (*b*), (*d*), (*f*) or (*g*) the Magistrate shall specify in the order the tax, fee or other amount which the person convicted has failed or evaded to pay or has wrongfully collected, and the tax, fee or amount so specified shall be recoverable as if it were a fine, substitute the following:—

'shall, in addition to the recovery of any tax that may be due from him, be, on conviction before a Magistrate, punishable with simple imprisonment which may extend to six months or with fine not exceeding Five Hundred Rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding Fifty rupees during the period of the continuance of the offence'.

6. The Bill was published in the Cochin Government Gazette Extraordinary dated 14th Vrischigam 1124/29th November 1948.

7. The Bill has not undergone material alterations at the hands of the Select Committee as to require republication. A copy of clause 22 of the Bill as modified is appended.

Yours faithfully,

(Sd.) P. GOVINDA MENON

(Minister for Finance and Law and Chairman)

Mr. C. A. Ouseph *(Minister for Education and Public Health)*	(Sd.)		
Mr. M. Bhaskara Menon	(Sd.)	Mr. K. Kunhirama Menon	(Sd.)
Mr. Sabastin Thoppil	(Sd.)	Mr. A. L. Jacob	(Sd.)
Mr. K. C. Mayankutty Mather	(Sd.)	Mr. O. T. Inasu	(Sd.)
Mr. Ittiera Ambookan	(Sd.)	Miss. Annie Joseph	(Sd.)

(Clause 22 modified by the Select Committee)

22. For sub-section (1) of section 31 of the Act, the following sub-section shall be substituted, namely:—

"31. (1) Any person who—

(*a*) wilfully submits an untrue return or fails to submit without sufficient cause a return as required by the provisions of this Act or the rules made thereunder, or

(*b*) fails to pay within the time allowed or such further time as may be allowed, any tax assessed on him, or any fee due from him under this Act, or

(*c*) prevents or obstructs inspection or entry by any officer under authorised section 26, in contravention of the terms thereof, or

(*d*) fraudlently evades the payment of any tax assessed on him or any fee due from him under this Act, or

(e fails to submit an application for registration as required by sub-section (1) of section 8A, or

(*f*) collects any amount by way of tax under this Act, in contravention of the provisions of sub-section (1) of section 8B, or

(*g*) fails to pay the amounts specified in sub-section (2) of section 8B within the prescribed time, or

(*h*) otherwise wilfully acts in contravention of any of the provisions of this Act,

shall, in addition to the recovery of any tax that may be due from him, be, on conviction before a Magistrate, punishable with simple imprisonment which may extend to six months or with fine not exceeding Five Hundred Rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding Fifty rupees during the period of the continuance of the offence."

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DISSENTING NOTE ON THE REPORT OF THE SELECT COMMITTEE FOR THE SALESTAX ACT (AMENDMENT) BILL BY MR. ITTIERA AMBOOKEN.

I regret to note the following facts regarding the reintroduction of Coir, Coir-yarns and betelnuts in the list of taxable articles.

Coir industry is one of Cochin's prominent cottage industries, and whatever tax introduced on this article will directly affect the labourer. The price of coir is generally fixed, and it varies to a good extent on the kind and quality. The raw material (cocoanut kernels) is not at all a very costly thing and about 75 per cent of the price of coir is for the labour charges, namely, converting kernels into yarn and yarn into coir. So, a sales-tax introduced on coir and coiry arn is practically a cut in the top-bottom wages of the thousands of poor labourers in the coastal regions.

In the case of betelnuts also, the sales-tax proposed will affect the lower middle-class cultivators, who are in no way better than labourers. Betelnut farming is not at all a source of income during these days. Whatever price fetched for betelnuts directly goes for labour. In Cochin 90 per cent of the betelnut trees have to be watered from Vrischigam to Medam (practically half of the year). A cultivator who keeps an account can find that whatever he gets from the trees' yield is only a poor remuneration for his labour, So any tax levied on this item also directly affects the poor peasants of our country.

Therefore, I earnestly hope that the House would be pleased to stand by mercy, and justice towards the poor peasants and labourers, agreeing to have the abovesaid articles excluded from the list of taxable items.

Ernakulam,
13th December 1948

(Signed)
ITTIERA AMBOOKEN,
(Member for Mala)

APPENDIX V

THE COCHIN ABKARI ACT (AMENDMENT) BILL

WHEREAS it is expedient to further amend the Cochin Abkari Act, I of 1077; It is hereby enacted as follows.—

1. *Short title.*—This Act may be called the Cochin Abkari (Amemdment) Act, of 112.

2. *Amendment of section 13 of the Cochin Abkari Act, I of 1077.*—In clause (2) of the proviso to section 13 of the Cochin Abkari Act, I of 1077, the words "or of any person for his *bona fide* private consumption and not for sale" shall be omitted.

Statement of Objects and Reasons

Section 13 of the Cochin Abkari Act, I of 1077, prohibits any person not being a licensed manufacturer or vendor, from possessing liquor or intoxicating drugs in excess of the quantities prescribed by Government without a license obtained from the Commissioner of Excise in this behalf. Clause (2) of the proviso to section 13; however, makes the section inapplicable to foreign liquor in the possession of any person for his bona fide private consumption. The possession of country liquor like arrack toddy, etc., in excess of the limits prescribed by Government under section 13 is an offence. Even though the limits of private possession of foreign liquor also have been fixed by Government by means of a notification, this is inapplicable to cases contemplated in the second proviso to section 13, and so the possession of any quantity of foreign liquor by a person for his bona fide private consumption will not be an offence. This is an anomalous position. Government should therefore have power to fix the limits for the possession of foreign liquor, whether is is possessed for bona fide private consumption or not. The Bill is intended to achieve this object by suitably amending clause (2) of the proviso to section 13 of the Abkari Act.

APPENDIX VI

THE COCHIN VAKILS ACT (AMENDMENT)BILL

Preamble.—WHEREAS it is expedient to amend the Cochin Vakils Act, VI of 1095; It is hereby enacted as follows:—

1. (1) This Act may be called the Cochin Vakils (Amendment) Act of 112

(2) It shall come into force at once.

2. *Amendment of section 10.*—For section 10 of the Cochin Vakils Act, VI 1095, the following shall be substituted:—

"10. *Power of High Court to regulate Vakils' fee.*—The High Court shall from time to time fix and regulate the fees payable by any party in respect of the fees of a Vakil upon all proceedings in the Courts subordinate to the High Court.

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